

# EXHIBIT 8

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## Records Management

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## Managing Public Records

Every governmental agency—state and local—is required by law to manage its public records in an orderly and systematic way. When this is done, records become a tremendous asset, the evidence of past events and the basis for future actions. To create a workable records management program, you must take four basic steps:

- [Inventory](#)
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### Inventorying Records

Until you know what records and other documents you have within your agency, you cannot establish a realistic records management program. So the first step is to inventory the materials in your office, including those documents on computers and in storage. Your goals are to:

- Discover what records and other documents you have.
- Create a list of where records are located and stored.
- Determine whether information is duplicated in different types of records.
- Estimate the costs and effects of existing records management techniques.

Make sure the person who conducts your inventory is capable of distinguishing what is and is not a public record. "Public record" is defined by state law (2-6-202 and 2-6-401 MCA). For a detailed list of documents that are *not* considered public records, consult [General Records Retention Schedule 9](#). If you still have trouble determining whether a particular document is a public record, contact the [Records Management Bureau](#) of the Secretary of State's Office, (406) 444-9000.

Generally, when conducting an inventory, it is best to start at one end of each office and go through each piece of filing equipment one at a time. As you inventory, you should keep track of what you find using [Records Series Profile Form RM-1](#).

### Appraising Records

Once you have inventoried your records, you can determine how long you need to keep them (retention period) and what to do with them once they are no longer useful (disposition). Generally speaking, only records that require frequent

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reference should be kept in the office. Other state-government records may be placed in inactive storage at the State Records Center. Agencies of local government may want to consider storing public records at the local library, museum, or historical society. To do so, you must contact the State Archivist for a deposit agreement form, (406) 444-4775.

If records must be kept permanently, the Montana Historical Society may be interested in obtaining them.

You need to consider the value of each record from a number of different perspectives before deciding whether it must be preserved and for how long:

- **Administrative value.** Most records are created as administrative tools to help accomplish the functions for which an agency was established. In most cases, the primary administrative value of a record will be exhausted when the transaction to which it relates is completed.
- **Legal value.** If a record contains evidence of a legally enforceable right or obligation of government, then it probably has legal value. Among this type of record are those that show the basis for an action (legal decisions, opinions), financial and other documents representing legal agreements (leases, titles, contracts), and records of actions taken in a particular case (claims, dockets). The legal value of a record will often be evident from its title, such as contract, purchase order, lease, title, deed, birth certificate, license, corporate charter, some personnel records, and certain medical records.
- **Fiscal value.** To fulfill their financial obligations, governmental agencies need to keep such records as budgets, ledgers, allotments, payrolls, vouchers, warrants, and encumbrances. These all have fiscal value, as would almost any document needed for a fiscal audit.
- **Historical value.** Even when a document no longer has any administrative, legal, or fiscal value, it still may have historical or documentation value and so should be retained. Records that contain authentic evidence of an agency's organization, function, policies, decisions, procedures, operations, or other activities are examples. This type of information may be found in policy records, organizational documents, memos, correspondence, and reports. "Historical" records that are not used in the day-to-day operations of an agency should be transferred to the State Archives of the Montana Historical Society. If you need guidance as to what constitutes a historical record, contact the State Archivist at (406) 444-4775.

### Scheduling Record Retention

The General Records Retention Schedules provide guidelines for how long certain types of state-government records must be kept. Guidelines for local-government documents may be found in the Local Government Retention Schedules. The latter will offer guidance to county clerks and recorders, county treasurers, motor vehicle registrars, school clerks, and court clerks.

For state-government records not listed in the general schedules, your agency must draft a retention schedule and submit it to the State Records Committee for approval. Once a retention schedule is approved by one of the records committees, it is legally binding. For local government records not listed in the schedules, contact the Local Government Records Committee.

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No official public record may be destroyed without the approval of either the State or Local Records Committee.

More information about setting up a records management program or creating a retention schedule is available from the [Records Management Bureau](#) of the Secretary of State's Office, (406) 444-9000. A brochure entitled "Basic Steps in a Records Management Program," is available upon request. The [General and Local Government](#) Records Schedules are available on this web site or from the Records Management Bureau.

### Disposing of and Destroying Records

When you no longer need regular access to certain records, you can dispose of them in one of the following ways:

- transfer to a storage facility
- transfer from one department or governmental entity to another
- transfer of permanent records to an archives
- destruction of temporary records

When a record is eligible for destruction, you can destroy it in one of the following ways:

- burning, pulping, shredding, macerating, burial
- discarding with other waste materials
- selling or salvaging the record medium (e.g. recycling)

Although the law allows you to destroy **employment records** 10 years after an employee has left your employ, you should consider keeping them longer, because they may not be available anywhere other than your office.

In the event of a lawsuit against your office, agency, or department, it is very important that you stop the destruction of records that might be pertinent to the suit, even if the records have met their scheduled retention period. If a judge thinks you intentionally destroyed pertinent records, your agency could be sanctioned. If your agency is presented with a subpoena, tell your staff attorney immediately and find out what records he or she may need in order to defend your agency.

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